

## **ABSTRAK**

### **ANALISIS PENJATUHAN PIDANA TERHADAP NELAYAN ASING PELAKU TINDAK PIDANA MENANGKAP IKAN TANPA SURAT IZIN (Studi Putusan Nomor : 4/Pid.Sus-PRK/2020/PN.Bit)**

**Oleh**

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Nelayan asing yang melakukan tindak pidana menangkap ikan tanpa surat izin di ZEEI hanya dijatuhkan pidana denda tanpa pidana pengganti kurungan, meskipun hanya dijatuhkan pidana denda, sanksi tersebut harus memberi efek jera dan memberi rasa keadilan. permasalahan yang akan dibahas dalam penelitian ini adalah: bagaimanakah penjatuhan pidana terhadap nelayan asing pelaku tindak pidana menangkap ikan tanpa surat izin dan apakah penjatuhan pidana terhadap nelayan asing pelaku tindak pidana menangkap ikan tanpa surat izin sudah memenuhi nilai-nilai keadilan.

Metode yang digunakan penulis dalam menyusun skripsi ini adalah dengan menggunakan metode pendekatan yuridis normatif, merupakan suatu pendekatan penelitian hukum studi kepustakaan, dan untuk memperkaya penelitian ini dilengkapi dengan melakukan wawancara terhadap narasumber kepada hakim dan akademisi.

Berdasarkan hasil penelitian dan pembahasan dapat ditarik simpulan penjatuhan pidana terhadap tindak pidana melakukan penangkapan ikan tanpa surat izin penangkapan ikan (SIPI) serta melakukan usaha dibidang penangkapan ikan tanpa surat izin usaha perikanan (SIUP) dalam putusan Nomor: 4/Pid.Sus-PRK/2020/PN. sesuai ketentuan dalam United Nations Convention on the Law of the Sea (UNCLOS) 1982 yang telah diratifikasi oleh Indonesia yaitu dalam Undang-Undang No.17 Tahun 1985 tentang Pengesahan UNCLOS 1982. Sesuai ketentuan UNCLOS 1982 Pasal 73 Ayat (3) hukuman yang diberikan Hakim terhadap kapal perikanan asing tersebut tidaklah boleh mencakup hukuman pengurangan, jika belum ada perjanjian antara negara-negara yang bersangkutan. Pidana yang dijatuhkan hakim dalam putusan Nomor: 4/Pid.Sus-PRK/2020/PN.Bit sesuai ketentuan dalam United Nations Convention on the Law of the Sea (UNCLOS) 1982 yang telah diratifikasi oleh Indonesia yaitu dalam Undang-Undang No.17 Tahun 1985 tentang Pengesahan UNCLOS 1982. Maka

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pada terdakwa Arnil Daberao Canopin, hakim hanya menjatuhkan pidana denda sebesar Rp. 300.000.000,- (tiga ratus juta rupiah). Pidana dijatuhkan hakim tersebut belum cukup memberikan efek jera dan belum dapat menjadi pembelajaran nelayan asing agar tidak melakukan kesalahan serupa.

Saran dari penelitian ini yaitu diharapkan terhadap nelayan asing yang melakukan penangkapan ikan tanpa surat izin di ZEEI dirumuskan sanksi lain pengganti pidana kurungan atau pidana penjara bilamana tidak dapat membayar denda. Diharapkan dengan adanya ketentuan sanksi lain pengganti denda terhadap nelayan asing pelaku penangkapan ikan tanpa surat izin di ZEEI dapat memberikan efek jera terhadap nelayan asing dan dapat memberi rasa keadilan terhadap nelayan lokal.

**Kata Kunci : Penjatuhan Pidana, Nelayan Asing, Tindak Pidana Menangkap Ikan Tanpa Izin.**

## **ABSTRACT**

### ***CRIMINAL ANALYSIS OF FOREIGN FISHERMAN PERSONNEL OF CRIMINAL ACTS OF CATCHING FISH WITHOUT LICENSE (Verdict Study Number: 4/Pid.Sus-PRK/2020/PN. Bit)***

***By:***

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Foreign fishermen who commit criminal acts of fishing without a license in the EEZ are only subject to fines without a substitute for confinement, even if they are only imposed with fines, these sanctions must have a deterrent effect and provide a sense of justice. Fishing without a license already meets the values of justice.

The method used by the author in compiling this thesis is to use the normative juridical approach method, the normative approach is a legal research approach to literature studies, and to enrich this research is complemented by conducting interviews with speakers to judges and academics.

Based on the results of research and discussion, conclusions can be drawn on the criminal act of fishing without a fishing license (SIPI) and conducting business in the field of fishing without a fishery business license (SIUP) in decision Number: 4 / Pid.Sus-PRK / 2020 / PN. in accordance with the provisions in the United Nations Convention on the Law of the Sea (UNCLOS) 1982 which has been ratified by Indonesia, namely in Law No.17 of 1985 concerning ratification of UNCLOS 1982. In accordance with the provisions of UNCLOS 1982 Article 73 Paragraph (3) the punishment given by the Judge to the foreign fishing vessel shall not include a penalty of confinement, if there has not been an agreement between the countries concerned. The sentence imposed by the judge in the judgment Number: 4/Pid.Sus-PRK/2020/PN. Bit in accordance with the provisions in the United Nations Convention on the Law of the Sea (UNCLOS) 1982 which has been ratified by Indonesia, namely in Law No.17 of 1985 concerning ratification of UNCLOS 1982. So on the defendant Arnil Daberao Canopin, the judge only imposed a fine of Rp. 300,000,000,- (three hundred million rupiah). The sentence imposed by the judge has not had enough deterrent effect and has not been able to learn foreign fishermen not to make similar mistakes.

*Riani Deyana Uli Lumbantobing*

The suggestion of this study is that it is expected that foreign fishermen who fish without a license in the EEZ formulate other sanctions in lieu of imprisonment or imprisonment if they cannot pay a fine. It is hoped that the provision of other sanctions in lieu of fines against foreign fishermen who are fishing without a license in the EEZ can have a deterrent effect on foreign fishermen and can provide a sense of justice to local fishermen.

**Keywords : Criminal Convictions, Foreign Fishermen, Criminal Acts of Fishing Without Permission.**